DOCUMENT RESUME

ED 304 744 EA 020 659

AUTHOR Funk, Richard S.
TITLE Distinguishing between Policy and Administrative Rules and Regulations.
PUB DATE 9 Oct 88
NOTE 15p.; Paper presented at the Annual Fall Conference of the Michigan Association of School Boards (40th, Grand Rapids, MI, October 9, 1988).
PUB TYPE Speeches/Conference Papers (150) -- Legal/Legislative/Regulatory Materials (090)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS Administrative Policy; *Administrator Responsibility; Board Administrator Relationship; *Board of Education Policy; *Educational Policy; Elementary Secondary Education; *Policy Formation

ABSTRACT

Administrative rules/regulations or procedures must be based upon a board policy. In order to provide adequate governance of the district, the board should consider adopting policy and administrative rules/regulations or procedures in the following areas: (1) review of administrative rules and regulations; (2) administration in absence of policy; (3) suspension of policies and bylaws; (4) approval of handbooks and other publications; and (5) administrative rules. These policies are discussed individually. Administrative rules/regulations or procedues are meant to implement and enforce board policy, designate a management process, and provide for an expansion of policy (examples are provided). (SI)

**********
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
**********

ED304744

# Distinguishing Between Policy and Administrative Rules and Regulations

Presented at:

The Michigan Association
of
School Board's

40th Annual
Fall Conference

Grand Rapids, Michigan

October 9, 1988

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

X This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

Richard S. Funk

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

Richard S. Funk, Ph.D.
Associate Executive Director/Policy Services
Michigan Association of School Boards

EA 020 659

Observe the first "rule-of-policy:" A good board policy makes for good administrative rules and regulations. Since that's true, what are some of the criteria that make a good policy?

All board of education policy statements should be driven by the question: "What does the board want to have happen?" If the question can't be answered you probably don't have a policy statement. And it follows, if its not possible to answer that question then its impossible to have implementing administrative rules/regulations or procedures.

A policy should cause "something" to happen. A policy should give direction and guidance to the district's staff. If "something" is happening in the district, there should be an authorizing policy statement.

By these definitions, a policy statement is usually short and direct. A policy statement is not paraphrasing state statute, not a philosophical statement and not a goal or objective of the board. A policy statement should not limit administrative decision-making nor take the place of the staff's professional judgment.

The superintendent has been hired to be the chief executive officer of the district. Give direction to the CEO and then hold him accountable for outcomes.

All administrative rules/regulations or procedures must be based upon a board policy. To have "something" happen in the district without the authorization is as bad as having a policy that doesn't cause "something" to happen.

In most instances the board does not adopt administrative rules/regulations or procedures. There are instances where formal adoption of administrative rules/regulations or procedures is desirable. Certain legal, political or public relations situations may cause a board to review and formally adopt rules/regulations or procedures presented by the superintendent. All administrative rules/regulations or procedures should be brought to the board by the superintendent for review in order to show the board compliance with policy. A board member should read through the administrative rule/regulation or procedure and ask himself: "Does this reflect the intent of the board?" If the answer is yes, fine. If not, proceed to correct the inaccuracy.

The board must have some assurance from the superintendent that the administrative rules/regulations or procedures developed and subsequently used will meet a legal challenge. Make sure those in charge of drafting administrative rules/regulations or procedures have the advice of legal counsel as needed.

Administrative Rules/Regulations or Procedures

Administrative rules/regulation or procedures are meant to: (a) implement board policy; (b) enforce board policy; (c) designate a management process, i.e. what, when, how and by whom; and (d) provide for an expansion of policy. For example:

Implementation

Board Policy: There shall be a uniform grading scale in the district's schools.

Enforcement

Board Policy: Persons found vandalizing the district's property shall be prosecuted to the fullest extent of the law.

Management Process

Board Policy: The building principals shall be the designated school officials responsible for enforcing the state's truancy law.

**Note:** The "management process must take into account the superintendent's management style and the board's management style. They must be compatible.

Expansion

Board Policy: Students found violating the "Student Code of Conduct" shall be disciplined as outlined in the procedures developed by the district's administrative staff, approved by the board and published in the student and parent handbooks.

The administrative rules/regulations or procedures developed by the

superintendent and his staff must compliment the board's intent in each of the above areas.

Implementation

What shall be the grading scale? A,B,C,D,F; A,B,C,D,E; A,A-; etc. What points are given for each? These guidelines are developed by the professional staff and presented for board review in order to show the board how its policy is being implemented.

Enforcement

Procedures are developed for the staff to follow regarding vandalism; i.e., investigation, notification of building administrator, notification of law enforcement officials; etc.

Management Process

The procedures describe how to follow the state's truancy law; i.e. time lines, documentation and record keeping; etc.

Expansion

What will be the disciplinary procedures (due process rights) and types of student discipline; i.e. detention (after school, Saturday); probation; in-school suspension; short and long term suspension; expulsion, etc. These are given to the board for review.

Most of us tend to think administrative rules/regulations or procedures are

only developed by administrators. Such is not always the case.

The board's own operating rules/regulations or procedures, sometimes referred to as the board's bylaws, must only be developed by the board. Such topics as voting method, parliamentary procedure, formation of board committees, and public participation at board meetings are examples of "administrative" rules/ regulations or procedures that should not be developed by administrators. For example:

Voting Method

Board Policy: The board shall provide for role call votes of members as allowed by current law and according to the procedures set forth below.

Parliamentary Procedure

Board Policy: The board shall not use "Robert's Rules of Order," but shall develop its own parliamentary procedure.

Procedures developed by the board may include: making motions, making substitute motions, election of officers, etc.

Remember, there are two types of so-called "administrative" rules/ regulations or procedures: (a) those developed by the district's administrators to implement, enforce and/or expand board policy; and (b) those developed by the board for its own use.

Each category sets forth rules/regulations or procedures needed for the operation of the district.

In order to provide for the adequate governance of the district, the board should consider adopting policy and "administrative" rules/regulations or procedures in the following areas: (a) review of administrative rules and regulations; (b) administration in absence of policy; (c) suspension of policies and bylaws; (d) approval of handbooks and other publications; and (e) administrative rules. See the enclosed policies:

BDF Review of Administrative Regulations

BDG Administration in Absence of Policy

BDH Suspension of Policies and Bylaws

CHCA Approval of Handbooks and Other Publications

CMA Administrative Rules

**Note:** The implementing "administrative" rule/regulation or procedure is coded "-R."

References

"The School Board Member's Guide to Policy Development," Educational Policies Service, National School Boards Association, 1680 Duke St., Alexandria, Virginia 22314, 1985.

"The School Administrator's Guide to the EPS/NSBA Policy Development System," Educational Policies Service, National School Boards Association, 1680 Duke St., Alexandria, Virginia, 22314, 1985.

"MASB Model Policy Manual," Policy Services Department, Michigan Association of School Boards, 421 W. Kalamazoo St., Lansing, Michigan 48933-2088, 1988.

BDF Review of Administrative Regulations BDF

All rules/regulations or procedures developed pursuant to the board's policies shall conform to the intent of the policies. The board shall not formally approve administrative rules/regulations or procedures except in those instances in which the superintendent or legal counsel believe such formal adoption is necessary or desirable because of potential litigation, public attitudes, or possible student or staff reaction.

The board gives the superintendent authority to develop and implement all necessary rules/regulation or procedures authorized by board policy or state statute.

All rules/regulations or procedures shall be published in the appropriate staff and student handbooks.

Approved:

BDF-R Review of Administrative Regulations BDF-R

The superintendent will keep the board informed of any rules/ regulations or procedures developed to implement board policy and will periodically present them to the board for review. The board may veto any administrative rule/regulation or procedure when, in the judgment of the board, they are inconsistent with board policy or board intent.

Rules/regulations or procedures may be issued directly by the superintendent without the adoption of board policy.

Before being issued, rules/regulations or procedures will be properly titled and coded according to the codification system adopted by the board. All rules/regulations or procedures issued to implement board policy shall be made a part of the policy manual and copies shall be provided to all holders of board policy manuals. Staff, students, and patrons of the district shall be informed of any rules/regulations or procedures affecting them as individuals or as a group.

BDG Administration in Absence of Policy BDG

When action must be taken and no guidelines have been provided for administrative action, the superintendent shall have the power to act. Such decisions shall be subject to review by the board at its next regular meeting. It shall be the duty of the superintendent to notify the board of such action and to advise the board of needed policy.

Approved:

BDH Suspension of Policies and Bylaws BDH

The policies and/or bylaws of the board shall be subject to suspension only upon a majority vote of the members elected to and serving on the board, at a meeting for which the proposed suspension has been described in writing, or upon unanimous vote of all members of the board when no such written notice has been given.

Approved:

CHCA Approval of Handbooks and Other Publications CHCA

In order that pertinent board policies, rules/regulations or procedures may be known by all staff members and students, district administrators are granted authority to issue staff and student handbooks.

Approved:

CHCA-R Approval of Handbooks and Other Publications CHCA-R

It is essential that the contents of all handbooks conform with board policies; it is also important that all handbooks bearing the name of the district or one of its schools be of a quality that reflects credit on the district. All handbooks may be approved by the board and superintendent prior to publication.

The superintendent may approve the publication of all curriculum guides, manuals, handbooks, and pamphlets and similar book-type publications that are directive in nature.

Student handbooks shall be submitted to the board for approval and must be consistent in all respects with board policy. Board approval shall be obtained for all rules/regulations or procedures which might involve litigation.

The board shall review and approve the district-wide personnel handbooks in order that the contents may be accorded the legal status of board approved policy. The superintendent shall use his judgment as to whether other specific handbooks or publications need board approval; however, all handbooks published are to be made available to the board for informational purposes.

The board delegates to the superintendent the responsibility for developing required rules/regulations or procedures to carry out the policies of the board and to operate the schools of the district. These rules/regulations or procedures shall constitute the administrative regulations governing the schools and may be considered for approval, modification or disapproval by the board as the situation warrants.

Staff Involvement

In the development of the rules/regulations or procedures and arrangements for the operation of the district, the superintendent shall include at the planning stage, representatives of those employees who will be affected by such provisions. The superintendent shall develop procedures utilizing certified and non-certified staff for the ready exchange of ideas and feelings regarding the operation of the district.

Community Involvement

The superintendent may involve district patrons on committees or student groups whenever necessary and when participation of the patrons may materially aid in the solution of district problems or enhance the submission of recommendations of proposed board action or policy formulation.

Rules Adoption

All administrative rules/regulations or procedures which originate from the administrative staff must be approved by the superintendent before adoption, modification or disapproval. All administrative rules/regulations or procedures recommended by the superintendent shall be reviewed but need not be approved

by the administrative staff before implementation.

Rules Dissemination

Copies of administrative rules/regulations or procedures shall be given to those employees who play a role in enforcing the rules or who will be affected by the rule changes.

Rules Review

In those instances where administrative rules have been adopted by the board, they shall be subject to continuous review by the board and the district's administrative staff.

Administration in Policy Absence

In case of an emergency in which action must be taken within the district where the board has provided no guides for administrative action, the superintendent shall have the power to act, but his decisions shall be subject to review by action of the board at the next regular board meeting. It shall be the duty of the superintendent to inform the board promptly of such action and of any need for board policy.

CMA-R Administrative Rules CMA-R

No administrative rule shall be in conflict with board policy.

Rules Drafting

All proposed rules/regulations or procedures may be submitted to the

board's attorney for legal interpretation before being submitted to the board for final approval.

Staff Involvement

The superintendent and principals may, at their own discretion, appoint committees for such functions as are not being performed by existing persons or groups.

Each staff or community committee shall act in an advisory capacity to the administrative officer responsible for the area in which the committee was designated to operate. All committees shall terminate no later than one year after their establishment unless re-established by the board or the superintendent.

Administration in Policy Absence

In the event the superintendent is forced to act in the absence of regular board policy or guidelines and feels that policy is needed, he may draft a proposed board policy, together with appropriate rules, to be presented to the board at its next meeting for its consideration.